

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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UNITED STATES OF AMERICA

v.

No. 4:12-cr-40026-FDS-2

**JOHN J. O'BRIEN,  
ELIZABETH V. TAVARES, and  
WILLIAM H. BURKE, III,**  
Defendants.

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**DEFENDANT ELIZABETH TAVARES' MOTION  
TO LATE FILE HER MOTION TO SEVER**

The defendant, Elizabeth Tavares ("the defendant"), by and through her undersigned attorneys, respectfully requests this Honorable Court permit her to late file (by two (2) days) her Motion to Sever, pursuant to F. R. Crim. P. 45(b)(1)(B). As grounds, the defendant avers and states:

1. Due to an oversight, undersigned counsel was unaware that *both* the defendants' motions to dismiss and any motions to sever were due on Wednesday, October 30<sup>th</sup>, and failed to timely file a motion to sever;
2. Upon receipt of motions to sever filed by each of defendant Tavares' co-defendants, undersigned counsel reviewed the motions and accompanying memoranda, and immediately thereafter consulted with the defendant;
3. It was determined, after reviewing her co-defendant's motions, that filing her own motion to sever was likewise in the defendant's best interests;

4. Undersigned counsel prepared the defendant's Motion to Sever and accompanying Memorandum without undue delay - an intervening period of a mere two (2) days after the filing deadline;
5. The failure to timely file her Motion to Sever was not due to unjustifiable neglect or intentional disregard of Court deadlines, but rather was caused by counsel's good faith belief that any such motion was not necessarily due on October 30. He immediately realized his oversight on seeing the motions to sever filed by each of defendant Tavares' co-defendants. Undersigned counsel believes this falls within the category of excusable neglect contemplated by F. R. Crim. P. 45(b)(1)(B);
6. Should the defendant's motion to late file be allowed, the defendant will not object to the extension of the United States' deadline to file a reply by the same two (2) days requested herein;
7. On information and belief, neither the Court nor the United States will be unduly prejudice by the granting of the relief requested herein; and
8. It is in the interests of justice to allow the late filing of the defendant's Motion to Sever.

WHEREFORE, the defendant respectfully requests that this Honorable Court permit her to late file (by two (2) days) her Motion to Sever, pursuant to F. R. Crim. P. 45(b)(1)(B).

Dated: November 1, 2013

Respectfully submitted,  
ELIZABETH V. TAVARES  
By and through her attorneys,

/s/ R. Bradford Bailey  
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**Certificate of Service**

I, R. Bradford Bailey, hereby certify that on this the 1<sup>st</sup> day of November 2013, I caused a true copy of the foregoing *Defendant Elizabeth Tavares' Motion to Late File Her Motion to Sever* to be served upon all necessary parties to this matter by virtue of electronically filing the same via the CM/ECF system.

/s/ R. Bradford Bailey  
R. Bradford Bailey